

## INTRODUCTION

Respondent Citizens for Traffic Relief (hereinafter the “Committee”) was a committee, primarily formed for the purpose of supporting the passage of Measure E in the jurisdiction of the North Lake Tahoe Transportation Authority of Placer County. At all times relevant to this matter, Respondent Frank Mooney was the treasurer of Respondent Committee.

The Political Reform Act (the “Act”)<sup>1</sup> requires primarily formed ballot measure committees, and the treasurers of those committees, to file campaign statements at specific times, disclosing information regarding contributions received and expenditures made by the committee. In this matter, Respondents failed to timely file pre-election campaign statements and a late contribution report disclosing contributions received in support of Measure E.

For the purposes of this stipulation, Respondent’s violations of the Act are stated as follows:

- COUNT 1: Respondents Citizens for Traffic Relief and Frank Mooney failed to timely file a first pre-election campaign statement, for the reporting period January 1, 2000 to August 5, 2000, by the August 10, 2000 due date, in violation of section 84200.5, subdivision (c) of the Government Code.
- COUNT 2: Respondents Citizens for Traffic Relief and Frank Mooney failed to timely file a second pre-election campaign statement, for the reporting period August 6, 2000 to September 2, 2000, by the September 7, 2000 due date, in violation of section 84200.5, subdivision (c) of the Government Code.
- COUNT 3: Respondents Citizens for Traffic Relief and Frank Mooney failed to disclose a \$10,000 late contribution to Respondent Citizens for Traffic Relief in a properly filed late contribution report, by the September 13, 2000 due date, in violation of Section 84203, subdivision (a).

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

## SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish these purposes of disclosure.

### A. Duty to File Campaign Statements

Section 82013, subdivision (a) includes within the definition of “committee” any person or combination of persons who directly or indirectly receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year. This type of committee is commonly referred to as a “recipient committee.” Under section 82047, a recipient committee that is formed primarily to support or oppose a single measure is a “primarily formed” committee.

#### 1. Duty to File Pre-election Statements

Section 84200.5, subdivision (c) requires that committees primarily formed to support or oppose a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even numbered year, must file pre-election campaign statements in accordance with section 84200.8.

Section 84200.8, subdivisions (a) and (b) requires a primarily formed committee to file a first pre-election campaign statement no later than 40 days before the election, for the reporting period ending 45 days before the election, and a second pre-election campaign statement no later than 12 days before the election, for the reporting period ending 17 days before the election.

#### 2. Duty to File Late Contribution Reports

Under section 84203, subdivision (a), when a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report that must be filed within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution” as a contribution aggregating \$1,000 or more that is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure before the date of the election at which the candidate or measure is to be voted on but after the closing date of the last campaign statement required to be filed before the election. Under Section 84200.8, subdivision (b), for an election not held in June or November of an even-numbered year, the late contribution period covers the last 16 days before the election.

### 3. Filing Officers

Section 84215, subdivision (c) requires a primarily formed committee supporting a local measure to file an original of its campaign statement(s) and a copy with clerk of the county with the largest number of registered voters in the jurisdiction.

#### B. Treasurer Liability

Under section 84100 and regulation 18427, subdivision (a), a committee's treasurer has the duty to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Pursuant to sections 83116.5 and 91006, the treasurer of a committee may be held jointly and severally liable, along with the committee, for the committee's reporting violations.

### **SUMMARY OF THE FACTS**

Respondent Committee was formed on July 24, 2000 for the purpose of supporting the passage of Measure E in a special election held on September 19, 2000, in the jurisdiction of the North Lake Tahoe Transportation Authority of Placer County. On August 1, 2000, Respondent Committee qualified as a recipient committee under the Act when it received a contribution of \$10,000. At all times relevant to this matter, Respondent Frank Mooney was the treasurer of Respondent Committee. Measure E did not pass.

From August 1, 2000 through December 31, 2000, Respondent Committee received \$66,900.00 in contributions and made expenditures of \$66,900.00. Respondent Committee terminated on January 18, 2001.

### **COUNT 1**

#### **Failure to File a First Pre-election Campaign Statement**

Because Respondent Committee was a primarily formed committee supporting the passage of Measure E in the September 19, 2000 election, Respondents Committee and Mooney were required to file a first pre-election campaign statement for the reporting period ending on August 5, 2000, by August 10, 2000, with the Placer County Clerk. During that first pre-election reporting period, Respondent Committee received contributions, totaling \$10,100, and made no expenditures.

Respondents Committee and Mooney failed to file a first pre-election campaign statement with any filing officer for the reporting period ending on August 5, 2000, by August 10, 2000. Respondents did not file a first pre-election campaign statement until October 23, 2000. By failing to file a first pre-election campaign statement by August 10, 2000, Respondents Committee and Mooney violated section 84200.5, subdivision (c).

**COUNT 2**  
**Failure to File a Second Pre-election Campaign Statement**

Respondents Committee and Mooney were required to file a second pre-election campaign statement for the reporting period ending on September 2, 2000, by September 7, 2000, with the Placer County Clerk. During that second pre-election reporting period, Respondent Committee received contributions, totaling \$37,795.00, and made expenditures of \$19,770.29.

Respondents Committee and Mooney failed to file a second pre-election campaign statement with any filing officer for the reporting period ending on September 2, 2000, by September 7, 2000. Respondents did not file a second pre-election campaign statement until October 23, 2000. By failing to file a second pre-election campaign statement by September 7, 2000, Respondents Committee and Mooney violated section 84200.5, subdivision (c).

**COUNT 3**  
**Failure to File a Late Contribution Report**

As a primarily formed committee supporting a local ballot measure, Respondents Committee and Mooney had a duty to file late contribution reports, disclosing, within 24 hours, late contributions that Respondent Committee received. The late contribution reporting period for the September 19, 2000 special election was September 3, 2000 through September 18, 2000.

Prior to the special election, Respondent Committee received a late contribution of \$10,000 on September 12, 2000, from Squaw Creek Associates. Respondents Committee and Mooney failed to file a late contribution report disclosing the \$10,000 late contribution by the September 13, 2000 due date.

By failing to disclose a \$10,000 contribution in a properly filed late contribution report, by the September 13, 2000 due date, Respondent violated section 84203, subdivision (a).

**CONCLUSION**

This case involves three counts with a potential maximum penalty of \$6,000.

Two counts involve a failure to file pre-election campaign statements. The typical stipulated administrative penalty has historically ranged from \$1,500 to \$2,000 per statement. Additionally, this case involves one count of failing to file a late contribution report. Under the Enforcement Division's Streamlined Late Contribution Enforcement Program, the approved administrative penalty for failing to timely disclose late contributions is 15 percent of the amount of the undisclosed contributions.

Respondents failed to file any campaign statements prior to the election. Respondent Committee was a major financial proponent of the measure in the election, and there were

substantial contributions made to Respondent Committee by various interests and individuals.

Respondents were neophytes in campaign reporting and there was no intent to deceive the voters. Respondents cooperated fully with the Commission investigation. Respondents do not have a history of any prior enforcement action being taken against them.

The facts of this case therefore justify imposition of the agreed upon penalty of Four Thousand Five Hundred Dollars (\$4,500).